IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

OP.No. 15986 of 2000(C)

PETITIONER:

M.G. RADHAMONI AMMA, STAFF NURSE, GOVT. HOSPITAL,
PEROORKADA, TVM. - 5.

BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
SRI.S.P.ARAVINDAKSHAN PILLAY
SRI.PIRAPPANCODE V.S.SUDHIR
SMT.RESMI G. NAIR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT, TVM.
2. DIRECTOR OF HEALTH SERVICES, KERALA STATE, TVM.
3. DISTRICT MEDICAL OFFICER OF HEALTH, TVM.
4. THE K.P.S.C., REPRESENTED BY ITS SECRETARY, PATTOM P.O., TVM.

R4 BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC
R1 TO R3 BY SHRI K.V. MANOJ, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1-TRUE COPY OF THE RELEVANT EXTRACT OF THE APPOINTMENT ORDER DATED 9.2.1983 ISSUED TO THE PETITIONER.

EXT.P2-TRUE COPY OF THE RELEVANT EXTRACT OF THE ORDER DATED 22.6.1985 OF R3

EXT.P3-TRUE COPY OF GO DATED 13.2.1987

EXT.P4-TRUE COPY OF ORDER DATED 1.10.1994 OF R3

EXT.P5-TRUE COPY OF GO DATED 8.12.1988

EXT.P6-TRUE COPY OF REPRESENTATION DT.4.8.1998 SUBMITTED BY THE PETITIONER BEFORE R1

EXT.P7-TRUE COPY OF RELEVANT EXTRACT OF THE GRADATION LIST PUBLISHED IN THE KERALA GAZETTE DATED 18.7.1985.

// TRUE COPY //

P.S. TO JUDGE

T.R. Ramachandran Nair, J.

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O.P.NO.15986 of 2000-C

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Dated this the 6th day of June, 2007

JUDGMENT

The petitioner apparently claims the benefit of Ext.P5 Govt. Order dated 8.12.1988. The short facts are as follows:

2. The petitioner was appointed on a provisional basis as a Junior Nurse in the Health Services Department as per Ext.P1 order. She joined duty as a Junior Nurse on 24.2.1983 pursuant to Ext.P1 order. Later on, she was appointed as a Staff Nurse on the advice of the Public Service Commission as per Ext.P2 order and she joined duty on 3.7.1985 in the said post. According to the petitioner, this is in continuation of her appointment as Junior Nurse as per Ext.P1. After availing leave without allowance for taking up employment aborad, she rejoined duty on 3.10.1994 pursuant to the permission granted by the District Medical Officer of Health as evidenced by Ext.P4 order.

3. By Ext.P5, the Government regularised the service of 589 provisional Staff Nurses with effect from the date of commencement of their service. Apparently, the petitioner has a complaint that by this process she was pushed down in the order of seniority. Claiming the benefit of Ext.P5

and for regularising her service pursuant to Ext.P1, she approached the Government by Ext.P6 representation but that did not evoke any reply so far. Thereafter, she filed a fresh representation evidenced by Ext.P9. In Ext.P9, the petitioner seeks for restoration of the correct seniority of the petitioner in the final gradation list by restoring her legitimate rank and seniority. According to her, if the benefit of Ext.P5 is given to her also, she will be entitled to a higher rank in the gradation list.

4. The second respondent, Director of Health Services has filed a counter affidavit traversing the contentions of the petitioner. Be that as it may, it is upto the Government to take a decision in the matter in so far the claim of the petitioner has not been considered as requested by her in Exts.P6 and P9.

5. Therefore, the writ petition is disposed of by directing the Secretary to Government, Health and Family Welfare Department to consider and pass orders on Exts.P6 and P9 representations within a period of three months from the date of receipt of a copy of this judgment. The petitioner will also be given an opportunity of being heard before any decision is taken on Exts.P6 and P9. If the Government considers that any other interested parties are also to be heard in the matter, they may also be issued notice before the representations are disposed of as directed above. I

make it clear that I have not expressed anything on the merits of the claim of the petitioner.

The original petition is disposed of in the above terms. No costs.

(T.R. Ramachandran Nair, Judge.)

kav/

T.R. Ramachandran Nair, J.

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O.P.NO.15986 of 2000-C

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JUDGMENT

6th day of June, 2007